

**WASHINGTON COUNTY COMMISSION  
MEETING MINUTES  
JUNE 3, 2014**

The Regular Meeting of the Board of the Washington County Commission was called to order by Chairman James J. Eardley at 4:00 p.m. on May 20, 2014, in the Commission Chambers, Washington County Administration Building, St. George, Utah. Those in attendance were Chairman James J. Eardley, Commissioner Alan Gardner, Administrator Dean J. Cox, Deputy County Attorney Eric Clarke, and Deputy County Clerk Christine S. Hall.

Commissioner Dennis Drake was excused, as he is out of town.

Commissioner Gardner led the Pledge of Allegiance.

**AGENDA**

**CONSENT AGENDA:**

The Consent Agenda is a means of expediting routine matters which come before the Commission for approval. The Consent Portion of the agenda is approved by one (1) non-debatable motion. If any Commissioner wishes to remove an item from the Consent Portion of the agenda, then that item becomes the first order of business on the Regular Agenda.

- Consideration of Auditor-Approved Claims for Payment for May 21, 2014, through June 3, 2014
- Consideration of Regular Commission Meeting Minutes from May 6, 2014
- Consideration of Applications for Settlement or Deferral of Property Taxes: Capone, Inc., S/N 7006-A-5-NC; Melvin & Rebecca Carter, S/N H-3-2-4-1140 and H-348-B-1-B; Mark & Nicole Fillmore, S/N W-10-B-1-A; Dwell Enterprises, S/N PVR-A-G-18; Len & Nancy Gibson, S/N H-229-B; NANO LLC/Nancy Williams, S/N H-3-1-33-3221; Richard Rogers, S/N W-4-2-19-308; Alan Ragozzine, S/N H-324-B; Toquerville Enterprises; various (attached)
- Consideration of Applications for Property Tax Abatement: Sylvia Schudde, A/N 0667090; Joan Kinney, S/N H-SKRG-1-2-A-RD; Margaret Manazer, S/N SG-PACT-1-153; Hilda DiFilippo, S/N SG-ERS-3-25
- Consideration of Administrative Adjustments: Real Property (attached)
- Consideration of Administrative Adjustments: Personal Property (attached)
- Acknowledgment of Publishing: Notices of Adoption of Ordinances Nos. 2014-1038-O and 2014-1039-O, on Saturday, May 24, 2014

**REGULAR AGENDA ITEMS FOR CONSIDERATION:**

**VOLUNTEER OF THE MONTH / CAROL HOLLOWELL**

No presentations were made today.

**PRESENTATION: COUNTY ATTORNEY BROCK BELNAP / STATUS UPDATE  
ON WASHINGTON COUNTY'S BACK-COUNTRY ROADS LAWSUIT  
AGAINST THE BUREAU OF LAND MANAGEMENT**

Washington County Attorney Brock Belnap explained that this issue has been unresolved for many years, having begun in 1976 when Congress enacted a statute called the Federal Land Policy Management Act (FLPMA). Before that time, a law referred to as RS-2477 was in place and was designed to encourage development of the roads of the West. If people would use a certain road for a period of time, then that road vested as a right-of-way to the general public. Under FLPMA automatic rights-of-way no longer existed, but prior existing ones were recognized. Washington County had hundreds of roads, stretching through the back-country and used by miners, hikers, hunters, fishermen, etc., and the County took the position that those roads belonged to the people and should remain open and be maintained by County personnel.

Over the years, the Clinton Administration issued a policy saying that it would not recognize RS-2477 roads unless there was a specific adjudication. What that means is that, for planning purposes, it would not even consider the County's rights-of-way unless the County had actually sued in court and won the declaration that those were County roads. The effect that had was that the BLM, over the years, has increasingly closed more and more roads and placed more restrictions on roads. In issuing its road-closure plans, the BLM does not take into account that many of the roads are lawful RS2477 rights-of-way.

It became clear that counties needed to be pro-active in ensuring that these RS-2477 roads stayed open and accessible. Over the past ten years, Mr. Belnap's office has been gathering evidence from older persons who used the roads long ago, including photographs and other documentation.

Washington County and the State filed a massive lawsuit against the BLM in May 2012 in federal court, asserting County rights to four hundred and thirty-three (433) roads. Because of its sheer size, a trial in this matter would probably last over a year. Washington County was at the forefront in preparing this lawsuit. Other counties and the State of Utah have filed similar lawsuits. The court has stayed the progress of the litigation for now, with the exception of taking depositions of people who are elderly in order to preserve their testimony.

**PURCHASE REQUESTS / MARK BLANCH**

There were no purchase requests today.

**CONSIDERATION OF RESOLUTION NO. R-2014-1816, A RESOLUTION RATIFYING A MEMORANDUM OF AGREEMENT BETWEEN WASHINGTON COUNTY AND RESOURCE & RE-ENTRY CENTER (R&RC)**

Washington County Sheriff Cory Pulsipher said that this agreement relates to the attempt to reduce recidivism in the County. He said that there is a greater chance to prevent repeat offenses if people's environment is changed and they receive one-on-one counseling. This center provides those additional resources. The County is not financially obligated in this agreement.

**MOTION: Motion by Commissioner Gardner to Adopt Resolution No. R-2014-1816, A Resolution Ratifying a Memorandum of Agreement between Washington County and Resource and Re-Entry Center (RC&C). Motion seconded by Commissioner Eardley and carried by unanimous vote, with Commissioners Eardley and Gardner voting aye.**

**CONSIDERATION OF RESOLUTION NO. R-2014-1817, A RESOLUTION APPOINTING TWO (2) MEMBERS TO THE JUSTICE COURT NOMINATING COMMISSION**

Deputy County Attorney Eric Clarke said that several years ago the statute governing the appointment of judges to justice courts throughout the state was changed to create a Justice Court Nominating Commission. The Nominating Commission consists of one person appointed by the County; a person appointed by the Mayors Association; and a person appointed by the local State Bar Association Chapter; and two (2) people appointed by the jurisdiction in which the Justice Court resides. In this instance, the vacancy occurs because Judge Paul Dame (if confirmed by the Senate) will be leaving the Washington County Justice Court to become a District Court Judge. The County has already appointed Michele Mitchell to a permanent position on the Justice Court Nominating Commission and needs to appoint two (2) additional members. This resolution clarifies the appointment resolution from the May 20 Commission Meeting, which erroneously stated the term of these appointments.

**MOTION: Motion by Commissioner Gardner to Adopt Resolution No. R-2014-1817, A Resolution Appointing Jerry Lewis and Curtis Jensen to the Justice Court Nominating Commission. Motion seconded by Commissioner Eardley and carried by unanimous vote, with Commissioners Eardley and Gardner voting aye.**

**CONSIDERATION OF RESOLUTION NO. R-2014-1818, A RESOLUTION APPOINTING JUSTIN GRENIER TO THE UTAH COMMUNICATION AUTHORITY**

Sheriff Pulsipher said that as part of an ongoing effort to consolidate communications statewide, the Utah Communication Authority has been created. Justin Grenier is an employee of the City of St. George in the dispatch center and a part-time employee of Washington County. He fully understands the radio communication system and is a perfect choice to sit on this committee.

**MOTION: Motion by Commissioner Gardner to Adopt Resolution No. R-2014-1818, A Resolution Appointing Justin Grenier to the Utah Communication Authority. Motion seconded by Commissioner Eardley and carried by unanimous vote, with Commissioners Eardley and Gardner voting aye.**

#### **COMMISSIONERS' REPORT**

No report was made today.

#### **PUBLIC WORKS OR ROAD BUSINESS**

No items were presented today.

#### **COUNTY DEVELOPMENT AND PLANNING BUSINESS**

County Planner Scott Messel reported that his office has been working on several ordinance amendments to be reviewed at Planning Commission next week. They concern variances, platting processes, and modifications to accessory dwellings and guest houses, as well as a creating a home occupation ordinance to address the balance between property rights and neighbors' rights while still encouraging economic development within the County. Additionally, the recreational vehicle ordinance is being developed which will concern people living in RVs on their properties while their houses are being built.

#### ***Request a Closed Session***

None.

There being nothing further to come before the Commission, the meeting was adjourned at 4:36 p.m.

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CHRISTINE S. HALL  
DEPUTY CLERK

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JAMES J. EARDLEY  
CHAIRMAN